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1st Session
HOUSE OF REPRESENTATIVES
REPORT
101-143

MISCELLANEOUS POSTAL SERVICE AMENDMENTS OF 1989

JULY 13, 1989.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. FORD of Michigan, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H.R. 2802]

[Including cost estimate of the Congressional Budget Office]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 2802) to amend title 39, United States Code, and associated provisions of other laws, to make technical and perfecting corrections, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

COMMITTEE ACTION

H.R. 2802 was introduced on June 30, 1989. On July 15, 1989, the Committee on Post Office and Civil Service, by a voice vote, ordered the bill reported favorably.

PURPOSE

The primary purpose of H.R. 2802 is to make necessary technical, clerical, and conforming amendments to laws relating to the United States Postal Service.

STATEMENT

H.R. 2802 is essentially corrective legislation which makes numerous technical, clerical, and conforming amendments to sections of title 39, United States Code, and other provisions of law. These legislative corrections have been recommended by the United States Postal Service and the committee is aware of no controversy with respect to any of the bill's provisions.

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H.R. 2802 does make several minor substantive changes in law. Section 2(f) authorizes the Postal Service and the Department of State to test the feasibility of a program to improve mail service to certain overseas posts. Sections 3 and 4 make perfecting amendments to the Charity Games Advertising Act of 1988 and the Indian Gaming Regulatory Act, respectively. The amendments have minor substantive effect but in the committee's view simply correct inadvertent errors in those acts. Section 5 amends title 39, United States Code, to permit the Postal Service to make exceptions to the statutory provision which prohibits the mailing of locksmithing devices. The provisions of the bill are explained more fully in the section analysis which follows.

Section Analysis

Section 1. Short title.

Section 1 of the bill provides a short title.

Section 2. Amendments to Postal Reorganization Act of 1970

Section 2 of the bill makes technical amendments to correct minor errors, fill in gaps, and eliminate expired and obsolete provisions in the text of the Postal Reorganization Act.

Subsection (a) of section 2 amends several sections of title 39, United States Code, to correct grammar, punctuation, and spelling.

Subsection (b) of section 2 corrects paragraph numbering. It amends section 410(b) of title 39 to harmonize conflicting amendments of that section made by section 2(c)(2) of the Prompt Payment Act Amendments of 1988 and section 104(b) of the Inspector General Act Amendments of 1988.

Subsection (c) of section 2 repeals obsolete provisions.

Paragraph (1) repeals section 206 of title 39 which created the Postal Advisory Council. That Council was terminated pursuant to section 14(a)(1)(B) of the Federal Advisory Committee Act.

Paragraphs (2), (3), and (4) strike the now-expired appropriations authorizations in section 2401(b), as well as the expired appropriations authorizations and related provisions added to subsections (d), (e), and (f) of section 2401 by the Postal Reorganization Act Amendments of 1976.

Paragraph (5) repeals an obsolete penalty mail provision relating to the Postal Union of Americas and Spain (39 U.S.C. 3217) and strikes references to that provision in other sections of title 39.

Paragraph (6) repeals section 5215 of title 39, which lost its function but inadvertently was not omitted when conferees on the postal reorganization legislation added the word "person" to section 5212 of title 39, which in a previous version of the bill had referred only to "carriers". This change rendered the certification procedure of section 5215 useless, since star route operators qualify as "persons" under section 5212 and thus contract with the Postal Service under that section.

Subsection (d) of section 2 restores provisions omitted by oversight and makes conforming changes. It conforms section 409(a) of title 39 to the Contract Disputes Act of 1978, which divested district courts of jurisdiction over contractors' suits. It also reenacts that part of section 5010 of former title 39 which provided that

postal return receipts would be received in courts as prima facie evidence of delivery. Omission of this provision from the revised title 39 appears to have been inadvertent. In addition, this subsection fills a gap in the Postal Reorganization Act, which failed to provide permanent authority for arrests and penal sanctions to enforce the laws and rules for the protection of postal premises and the people working or visiting there. Following postal reorganization, parallel authority of the General Services Administration no longer applied. Subsequently, this authority has been supplied only in the annual postal appropriation acts.

Subsection (e) of section 2 updates terminology. It updates the penalty mail authorization to reflect the new names of the former Pan American Union and the Pan American Sanitary Bureau, which are now known as the Organization of American States and the Pan American Health Organization, respectively.

Subsection (f) of section 2 amends title 39, United States Code, to authorize the Postal Service and the Department of State to test the feasibility of providing postal services overseas at diplomatic missions, much as the Department of Defense already provides postal services overseas through its own personnel at overseas military posts in cooperation with the Postal Service under section 406 of title 39. The amendment also provides authority to implement such service on a long-term basis to the extent that both agencies find it to be feasible and in the public interest to do so.

Both the Postal Service and the Department of State have already conducted a preliminary review of this proposal. Further consideration of it is hindered by the State Department's lack of statutory authority to conclude and implement an agreement which, among other things, would provide for reimbursement of the Postal Service for any additional costs it may incur in the testing or provision of such services.

The Department of State would be authorized and required to reimburse the Postal Service fully for all additional costs, as determined by the Postal Service, including transportation costs, incurred by the Postal Service in the provision, or testing the provision, of such services. The Postal Service could terminate any agreement it enters into under this provision for a failure by the Department of State to provide for reimbursement.

Personnel at diplomatic posts abroad currently obtain personal mail service from local mail service offered by the host government, the military postal system established under section 406 of title 39, and from diplomatic pouch service which is intended and primarily suitable for diplomatic communications.

To avoid the confusion and duplication of effort that would result from operating two U.S. branch post offices at the same location abroad, branch post offices may not be established under this provision to serve diplomatic posts at locations for which military branch post offices are established under section 406. Such military branch offices are expected, in accord with current practice, to continue to make their facilities available to diplomatic personnel at these posts, in accordance with agreements reached between the Department of State and the Department of Defense.

Section 3. Perfection of the Charity Games Advertising Clarification Act of 1988

This section perfects the Charity Games Advertising Clarification Act of 1988.

Subsection (a) of section 3 corrects an unintended overly broad exemption from the anti-lottery provisions of title 39 for "tickets or other materials" of any lottery within a State. The exemption resulted from the enactment of section 2(c) of the Charity Games Advertising Clarification Act of 1988. Consistent with the rest of that Act, this exemption had been intended only for lotteries conducted by a State acting under authority of State law.

Subsection (b) of section 3 makes a technical correction to section 1307(d) of title 18, by adding a reference to subsection (a)(1) of section 1307. The purpose of the amendment is to avoid inconsistent treatment of the mailability of tickets and information concerning State conducted lotteries.

Subsection (c) of section 3 provides that the amendments made by section 3 will become effective on May 7, 1990, the effective date of the Charity Games Advertising Clarification Act of 1988.

Section 4. Perfection of the Indian Gaming Regulatory Act

Section 4 perfects the Indian Gaming Regulatory Act. It corrects an oversight in that Act which provided an exemption from the mailing and advertising restrictions of title 18, United States Code, regarding Indian gaming but filed to provide a similar exemption from the civil-administrative restrictions of section 3005 of title 39.

Section 5. Perfection of section 3002a of title 39, United States Code

Section 5 perfects section 3002a of title 39, United States Code, dealing with the non-mailability of locksmithing devices, by authorizing the Postal Service to make additional exemptions from the restrictions on mailing these devices if it is deemed necessary.

Existing section 3002a was added by section 7090 of Public Law 100-690, the Anti-Drug Abuse Act of 1988. Section 3002a makes locksmithing devices nonmailable unless mailed to four categories of users-lock manufacturers or distributors, bona fide locksmiths, bona fide repossessors, and motor vehicle manufacturers and dealers.

When the Postal Service initiated its public rule making to implement section 3002a, it became apparent that certain persons which had legitimate reasons for mailing locksmithing devices would be precluded from doing so by section 3002a. Such persons include the American Automobile Association in connection with its emergency lockout service, students of an accredited or State-certified locksmithing school, and manufacturers of locksmithing devices who provide them to law enforcement agencies. The perfecting amendment to section 3002a of title 39 made by section 5 of the bill authorizes the Postal Service to grant administrative exceptions to the prohibition on mailing locksmithing devices as it deems necessary. The committee expects such exceptions to be few, and to be consistent with the intent of Congress in originally enacting section 3002a.

Section 6. Effective date

Section 6 of the bill provides that, except as provided in section 3(c) relating to amendments to the Charity Games Advertising Clarification Act of 1988, the amendments made by the bill shall be effective on the date of enactment.

COST

The cost estimate prepared by the Congressional Budget Office pursuant to sections 308(a) and 403 of the Congressional Budget Act of 1974, as amended, is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 13, 1989.

Hon. WILLIAM D. FORD,
Chairman, Committee on Post Office and Civil Service,
House of Rpresentatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2802, the Miscellaneous Postal Service Amendments of 1989, as ordered reported by the House Committee on Post Office and Civil Service on July 12, 1989.

H.R. 2802 would make a number of technical, clerical, and conforming amendments to laws relating to the U.S. Postal Service, as well as some minor substantive changes. In addition, the bill would authorize the Postal Service to establish branch post offices at U.S. diplomatic missions in locations abroad and to enter into an agreement with the Department of State for the Department to perform postal services at such branch post offices.

Based on information from the U.S. Postal Service and the Department of State, we estimate that enactment of H.R. 2802 would result in no net additional cost to the federal government. The branch post offices at U.S. diplomatic missions abroad would simply replace the current use of the diplomatic pouch system to carry mail.

No costs would be incurred by state or local governments as a result of enactment of this bill.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mitchell Rosenfeld, who can be reached at 226-2860.

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer, Director).

OVERSIGHT

Under the rules of the Committee on Post Office and Civil Service, the committee is vested with legislative and oversight jurisdiction over the subject matter of this legislation. The committee concluded that there is ample need and justification for enacting this legislation.

The committee received no report of oversight findings or recommendations from the Committee on Government Operations pursuant to clause 4(c)(2) of House Rule X.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of House Rule XI, the committee has concluded that enactment of H.R. 2802 will have no inflationary impact on the national economy.

CHANGES IN EXISTING LAW MADE BY THE BILL AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 39, UNITED STATES CODE

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PART I—GENERAL

* * * * * * *

CHAPTER 2.—ORGANIZATION

Sec.
201. United States Postal Service.
202. Board of Governors.
203. Postmaster General; Deputy Postmaster General.
204. Assistant Postmasters General; General Counsel; Judicial Officer.
205. Procedures of the Board of Governors.
[206. Advisory Council.]
207. Seal.
208. Reservation of powers.

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[§ 206. Advisory Council

[(a) There shall be a Postal Service Advisory Council of which the Postmaster General shall be the Chairman and the Deputy Postmaster General shall be the Vice Chairman. The Advisory Council shall have 11 additional members appointed by the President. He shall appoint as such members (1) 4 persons from among persons nominated by those labor organizations recognized as collective-bargaining representatives for employees of the Postal Service in one or more collective-bargaining units, (2) 4 persons as representatives of major mail users, and (3) 3 persons as representatives of the public at large. All members shall be appointed for terms of 2 years except that, of those first appointed, 2 of the members representative of labor organizations, 2 of the members representative of major postal users, and 1 member representing the public at large shall be appointed for 1 year. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term.]

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CHAPTER 4.—GENERAL AUTHORITY

Sec.
401. General powers of the Postal Service.

413. Return receipts received in the courts.
414. Security of Postal Service property.
415. Postal services at diplomatic posts.

§ 404. Specific powers

(a) Without limitation of the generality of its powers, the Postal Service shall have the following specific powers, among others:

(1) * * *

[(5) to provide, establish, change, or abolish special nonpostal or similar services;]

(6) to provide, establish, change, or abolish special nonpostal, or similar services;

§ 409. Suits by and against the Postal Service

(a) Except as provided in section 3628 of this title, *and the Contract Disputes Act of 1978,* the United States district courts shall have original but not exclusive jurisdiction over all actions brought by or against the Postal Service. Any action brought in a State court to which the Postal Service is a party may be removed to the appropriate United States district court under the provisions of chapter 89 of title 28.

§ 410. Application of other laws

(a) Except as provided by subsection (b) of this section, and except as otherwise provided in this title or insofar as such laws remain in force as rules or regulations of the Postal Service, no Federal law dealing with public or Federal contracts, property, works, officers, employees, budgets, or funds, including the provisions of chapters 5 and 7 of title 5, shall apply to the exercise of the powers of the Postal Service.

(b) The following provisions shall apply to the Postal Service:

(1) * * *

[(8) Chapter 39 of title 31.
[(9) the provisions of section 8E of the Inspector General Act of 1978.]

(9) chapter 39 of title 31; and
(10) the provisions of section 8E of the Inspector General Act of 1978.

§ 413. Return receipts received in the courts

A return receipt provided by the Postal Service to a sender of mail showing to whom and when an article was delivered, or to whom, when, and the address to which an article was delivered, shall be received in the courts as prima facie evidence of delivery.

§ 414. Security of Postal Service property

(a) The Postal Service may appoint uniformed guards who shall have the same powers as sheriffs and constables upon property owned or occupied by the Postal Service to enforce the laws enacted for the protection of persons and property, and to prevent breaches of the peace, to suppress affrays or unlawful assemblies, and to enforce any rules and regulations promulgated by the Postal Service for the property under its jurisdiction. The jurisdiction and policing powers of such guards shall not extend to the service of civil process.

(b) When the Postal Service uses the facilities and services of existing Federal, State, or local law enforcement agencies to protect property owned or occupied by the Postal Service, it may grant to law enforcement officers of such agencies the same powers that it may grant to its own guards under subsection (a) of this section.

(c) Whoever violates any rule or regulation promulgated by the Postal Service for the governance of property owned or occupied by the Postal Service shall be fined not more than $50 or imprisoned not more than 30 days, or both. Such rules and regulations shall be posted in a conspicuous place on such property.

§ 415. Postal services at diplomatic posts

(a) The Postal Service and the Department of State may enter into 1 or more agreements for field testing to ascertain the feasibility of providing postal services through personnel provided by the Department of State at branch post offices established by the Postal Service in United States diplomatic missions at locations abroad for which branch post offices are not established under section 406.

(b) To the extent that the Postal Service and the Department of State conclude it to be feasible and in the public interest, the Postal Service may establish branch post offices at United States diplomatic missions in locations abroad for which branch post offices are not established under section 406, and the Department of State may enter into an agreement with the Postal Service to perform postal services at such branch post offices through personnel designated by the Department of State.

(c) The Department of State shall reimburse the Postal Service for any amounts, determined by the Postal Service, equal to the additional costs incurred by the Postal Service, including trasnsportation costs, incurred by the Postal Service in the performance of its obligations under any agreement entered into under this section.

(d) Each agreement entered into this section shall include—

(1) provisions under which the Department of State shall make any reimbursements required under subsection (c);

(2) provisions authorizing the Postal Service to terminate the agreement, and the services provided thereunder, in the event that the Department of State does not comply with the provisions under paragraph (1); and

(3) any other provisions which may be necessary, including provisions relating to the closing of a post office under this section if necessary because a post office under section 406 is established in the same location.

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PART III—MODERNIZATION AND FISCAL ADMINISTRATION

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CHAPTER 20.—FINANCE

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§ 2003. The Postal Service Fund

(a) * * *

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[(f) Notwithstanding any other provision of this section, any amounts appropriated to the Postal Service under subsection (d) of section 2401 of this title and deposited into the Fund shall be expended by the Postal Service only for the purposes provided in such subsection.]

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CHAPTER 24.—APPROPRIATIONS AND ANNUAL REPORT

Sec.
2401. Appropriations.
2402. Annual report.

§ 2401. Appropriations

(a) There are appropriated to the Postal Service all revenues received by the Postal Service.

[(b)(1) As reimbursement to the Postal Service for public service costs incurred by it in providing a maximum degree of effective and regular postal service nationwide, and communities where post offices may not be deemed self-sustaining, as elsewhere, there are authorized to be appropriated to the Postal Service the following amounts:

[(A) for each of the fiscal years 1972 through 1979, an amount equal to 10 percent of the sum appropriated to the former Post Office Department by act of Congress for its use in fiscal year 1971;

[(B) for fiscal year 1980, an amount equal to 9 percent of such sum for fiscal year 1971;

[(C) for fiscal year 1981, $486,000,000;

[(D) for fiscal year 1982, $250,000,000;

[(E) for fiscal year 1983, $100,000,000;

[(F) for fiscal year 1984, no funds are authorized to be appropriated; and

[(G) except as provided in paragraph (2) of this subsection, for each fiscal year thereafter an amount equal to 5 percent of such sum for fiscal year 1971.

[(2) After fiscal year 1984, the Postal Service may reduce the percentage figure in paragraph (1)(G) of this subsection, including a reduction to 0, if the Postal Service finds that the amounts determined under such paragraph are no longer required to operate the Postal Service in accordance with the policies of this title.]

(b)(1) As reimbursement to the Postal Service for public service costs incurred by it in providing a maximum degree of effective and regular postal service nationwide, in communities where post offices may not be deemed self-sustaining, as elsewhere, there is authorized to be appropriated to the Postal Service, except as provided in paragraph (2) of this subsection, an amount equal to 5 percent of the sum appropriated to the former Post Office Department by Act of Congress for its use in fiscal year 1971.

(2) For any fiscal year, the Post Service may reduce the percentage figure in paragraph (1) of this subsection, including a reduction to 0, if the Postal Service finds that the amounts determined under such paragraph are not required to operate the Postal Service in accordance with the policies of this title.

(c) There [are] *is* authorized to be appropriated to the Postal Service each year a sum determined by the Postal Service to be equal to the difference between the revenues the Postal Service would have received if sections [3217, 3403-3406,] *3403-3406* and 3626(a)-(h) of this title, had not been enacted and the estimated revenues to be received on mail carried under such sections and Acts. In requesting an appropriation under this subsection for a fiscal year, the Postal Service shall include an amount to reconcile sums authorized to be appropriated for prior fiscal years on the basis of estimated mail volume with sums which would have been authorized to be appropriated if based on the final audited mail volume.

[(d)(1) There is authorized to be appropriated to the Postal Service for fiscal year 1976 and for the period beginning July 1, 1976, and ending September 30, 1976, the amount of $500,000,000 to be applied against the accumulated operating indebtedness of the Postal Service as of September 30, 1976.

[(2) There is authorized to be appropriated to the Postal Service for fiscal year 1977 the amount of $500,000,000 to be applied against the accumulated operating indebtedness of the Postal Service as of September 30, 1977.

[(e) During the period beginning on the date of the appropriation of the funds under subsection (d)(1) and ending on the date on which the Commission on Postal Service is required to transmit the final report required under section 7(f)(1) of the Postal Reorganization Act Amendments of 1976 to the President and each House of Congress, the Postal Service shall not—

[(1) have in effect any permanent or temporary rate of postage or fee for postal services exceeding the rates and fees in effect on the date of enactment of the Postal Reorganization Act Amendments of 1976;

[(2) provide levels and types of postal services which are less than the levels and types of services provided on July 1, 1976;

[(3) close any post office where 35 or more families regularly receive their mail and which was providing service on July 1, 1976; or

[(4) close any post office where fewer than 35 families receive their mail and which was providing service on July 1, 1976, unless the Postal Service receives the written consent of at least 60 percent of the regular patrons of such office who are at least 18 years of age.

[(f) During the period beginning on the date of the appropriation of the funds under subsection (d)(1) and ending on the date on which the Commission on Postal Service is required to transmit the final report required under section 7(f)(1) of the Postal Reorganization Act Amendments of 1976 to the President and each House of Congress, the Postal Service shall provide door delivery or curbline delivery to all permanent residential addresses (other than apartment building addresses) to which service is begun on or after the date of enactment of the Postal Reorganization Act Amendments of 1976.]

[(g)] *(d)* The Postal Service shall present to the Committees on Post Office and Civil Service and the Committees on Appropriations of the Senate and the House of Representatives, at the same time it submits its annual budget under section 2009 of this title, sufficient copies of the budget of the Postal Service for the fiscal year for which funds are requested to be appropriated, and a comprehensive statement relating to the following matters:

(1) the plans, policies, and procedures of the Postal Service designed to comply with all of the provisions of section 101 of this title;

(2) postal operations generally, including data on the speed and reliability of service provided for the various classes of mail and types of mail service, mail volume, productivity, trends in postal operations, and analyses of the impact of internal and external factors upon the Postal Service;

(3) a listing of the total expenditures and obligations incurred by the Postal Service for the most recent fiscal year for which information is available, an estimate of the total expenditures and obligations to be incurred by the Postal Service during the fiscal year for which funds are requested to be appropriated, and the means by which these estimated expenses will be financed; and

(4) such other matters as the committees may determine necessary to ensure that the Congress is fully and currently consulted and informed on postal operations, plans, and policies.

Not later than March 15 of each year, the Postal Service shall appear before the Committees on Post Office and Civil Service of the Senate and the House of Representatives to submit information which any such committee considers necessary to determine the amount of funds to be appropriated for the operation of the Postal Service, and to present testimony and respond to questions with respect to such budget and statement. Each such committee shall take such action as it considers appropriate and shall advise the Postal Service of such action.

[(h)] *(e)* The failure of the President to request the appropriation of any part of the funds authorized by this section may not be

deemed a failure of appropriations. [The failure of the President to request the appropriation of any part of the funds authorized by this section shall not relieve the Postal Service from the responsibility to comply with the provisions of subsections (e) and (f) of this section.]

[(i)] *(f)* The rates established under chapter 36 of this title for zone-rated parcels formerly entered under former chapter 67 of this title shall not be more than 10 percent less than the rates for such mail would be if the funds authorized under subsection (b) and (d) of this section were not appropriated.

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PART IV—MAIL MATTER

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CHAPTER 30.—NONMAILABLE MATTER

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§ 3002a. Nonmailability of locksmithing devices.

(a) [Any] *Except as provided in subsection (b) of this section, any* locksmithing device is nonmailable mail, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless such device is mailed to—

(1) a lock manufacturer or distributor;

(2) a bona fide locksmith;

(3) a bona fide repossessor; or

(4) a motor vehicle manufacturer or dealer.

(b) The Postal Service is authorized to make such exemptions from the provisions of subsection (a) of this section as it deems necessary.

[(b)] *(c)* For the purpose of this section, "locksmithing device" means—

(1) a device or tool (other than a key) designed to manipulate the tumblers in a lock into the unlocked position through the keyway of such lock;

(2) a device or tool (other than a key or a device or tool under paragraph (1)) designed for the unauthorized opening or bypassing of a lock or similar security device; and

(3) a device or tool designed for making an impression of a key or similar security device to duplicate such key or device.

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§ 3005. False representations; lotteries

(a) * * *

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(d) Nothing in this section shall prohibit the mailing of (1) publications containing advertisements, lists of prizes, or information concerning a lottery, which are exempt, pursuant to section 1307 of title 18 of the United States Code, from the provisions of sections 1301, 1302, 1303, and 1304 of title 18 of the United States Code, [(2) tickets or other materials concerning such a lottery within that

State to addresses within that State.], *(2) tickets or other materials to addresses within a State concerning a lottery conducted by such State, within that State, acting under authority of State law,* or (3) an advertisement promoting the sale of a book or other publication, or a solicitation to purchase, or a purchase order for any such publication, if (A) such advertisement, solicitation, or purchase order is not materially false or misleading in its description of the publication; (B) such advertisement, solicitation, or purchase order contains no material misrepresentation of fact: Provided, however, That no statement quoted or derived from the publication shall constitute a misrepresentation of fact as long as such statement complies with the requirements of subparagraphs (A) and (C); and (C) the advertisement, solicitation, or purchase order accurately discloses the source of any statements quoted or derived from the publication. Paragraph (3) shall not be applicable to any publication, advertisement, solicitation, or purchase order which is used to sell some other produce in which the publisher or author has a financial interest as part of a commercial scheme. For the purposes of this subsection, "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

CHAPTER 32.—PENALTY AND FRANKED MAIL

Sec.
3201. Definitions.

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[3217. Correspondence of members of diplomatic corps and consuls of countries of Postal Union of Americans and Spain.]

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§ 3202. Penalty mail

(a) Subject to the limitations imposed by sections 3204 and 3207 of this title, there may be transmitted as penalty mail—

(1) official mail of—

(A) officers of the Government of the United States other than Members of Congress;

(B) the Smithsonian Institution;

(C) [the Pan American Union] *the Organization of American States*;

(D) [the Pan American Sanitary Bureau] *the Pan American Health Organization*;

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§ 3204. Restrictions on use of penalty mail

(a) Except as otherwise provided in this section or section 3220(a) of this title, an officer, executive department, or independent establishment of the Government of the United States may not mail, as penalty mail, any article or document unless—

(1) a request therefor has been previously received by the department or establishment; or

(2) its [mailings] *mailing* is required by law.

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§ 3217. Correspondence of members of diplomatic corps and consuls of countries of Postal Union of Americas and Spain

[Correspondence of the members of the diplomatic corps of the countries of the Postal Union of the Americas and Spain stationed in the United States may be reciprocally transmitted in the domestic mails free of postage, and be entitled to free registration without right to indemnity in case of loss. The same privilege is accorded consuls and vice consuls when they are discharging the function of consuls of countries stationed in the United States, for official correspondence among themselves, and with the Government of the United States.]

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CHAPTER 36.—POSTAL RATES, CLASSES, AND SERVICES

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Subchapter I—Postal Rate Commission

§ 3601. Establishment

(a) The Postal Rate Commission is an independent establishment of the executive branch of the Government of the United States. The Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and [consent] *consent* of the Senate. The Commissioners shall be chosen on the basis of their professional qualifications and may be removed by the President only for cause. Not more than 3 of the Commissioners may be adherents of the same political party.

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Subchapter II—Permanent Rates and Classes of Mail

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§ 3625. Action of the Governors

(a) * * *

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(d) The Governors may reject the recommended decision of the Commission and the Postal Service may resubmit its request to the Commission for reconsideration. Upon resubmission, the request shall be reconsidered, and a further recommended decision of the Commission shall be acted upon under this section and subject to review in accordance with section [3268] *3628* of this title. However, with the unanimous written concurrence of all of the Governors then holding office, the Governors may modify any such further recommended decision of the Commission under this subsection if the Governors expressly find that (1) such modification is in accord with the record and the policies of this chapter, and (2) the rates recommended by the Commission are not adequate to provide suffi-

cient total revenues so that total estimated income and appropriations will equal as nearly as practicable estimated total costs.

§ 3627. Adjusting free and reduced rates

If Congress fails to appropriate an amount authorized under section 2401(c) of this title for any class of mail sent at a free or reduced rate under section [illegible] or 3626 of this title, the rate for that class may be adjusted in accordance with the provisions of this subchapter so that the increased revenues received from the users of such class wil equal the amount for that class that the Congress was to appropriate.

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PART V—TRANSPORTATION OF MAIL

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CHAPTER 52.—TRANSPORTATION OF MAIL BY SURFACE CARRIER

Sec.
5201. Definitions.

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[5215. Star route certification.]

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§ 5212. Special contracts

The Postal Service may enter into special contracts with any carrier or person, without advertising[,] for bids, and for periods not in excess of 4 years. It may contract to pay lower rates or compensation or, where in its judgement conditions warrant, higher rates or compensation than those determined or fixed by the Commission. The fact that the Commission has not prescribed rates or compensation for the carrier involved, under section 5207 of this title, shall not preclude execution of a contract under this section. Such contracts may be negotiated only after reasonable notice has been posted in advance in post offices on the post roads to be served, and other carriers or persons have been given an opportunity to offer to negotiate for the transportation of mail.

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[§ 5215. Star route certification

[(a) Any person who was a contractor under a star route, mail messenger, or contract motor vehicle service contract on the effective date of this section (or successor in interest to any such person), shall, upon application to the Commission for the territory within which such contractor operated on or before the effective date of this section be issued a certificate of public convenience and necessity as a motor common carrier for the transportation of mail by the Commission without the Commission's requiring further proof that the public convenience and necessity will be served by such operation and without further proceedings.

[(b) Applications of persons who were not contractors on the effective date of this section shall be decided in accordance with applicable Commission procedure.

[(c) For purposes of this section, the term "person" has the same meaning given that term under section 1 of title 1.]

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SECTION 1307 OF TITLE 18, UNITED STATES CODE

§ 1307. Exceptions relating to certain advertisements and other information and to State-conducted lotteries

(a) * * *

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(d) For the purposes of [subsection (b) of] *subsections (a)(1) and (b) of* this section "lottery" means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers. "Lottery" does not include the placing or accepting of bets or wagers on sporting events or contests. For purposes of this section, the term a "not-for-profit organization" means any organization that would qualify as tax exempt under section 501 of the Internal Revenue Code of 1986.

SECTION 21 OF THE INDIAN GAMING REGULATORY ACT

DISSEMINATION OF INFORMATION

SEC. 21. Consistent with the requirements of this Act, sections 1301, 1302, 1303 and 1304 of title 18, United States Code, *and the antilottery provisions of section 3005 of title 39, United States Code,* shall not apply to any gaming conducted by an Indian tribe pursuant to this Act.

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